

CHAPTER 3

UNEMPLOYMENT BENEFITS — OVERPAYMENTS

S.F. 110

AN ACT relating to conformity with federal law concerning unemployment insurance employer charges and claimant misrepresentation regarding benefit overpayments, providing a penalty, and including applicability provisions.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 96.3, subsection 7, paragraph b, subparagraph (1), Code 2013, is amended to read as follows:

(1) (a) If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5. The employer shall not be relieved of charges if benefits are paid because the employer or an agent of the employer failed to respond timely or adequately to the department's request for information relating to the payment of benefits. This prohibition against relief of charges shall apply to both contributory and reimbursable employers.

(b) However, provided the benefits were not received as the result of fraud or willful misrepresentation by the individual, benefits shall not be recovered from an individual if the employer did not participate in the initial determination to award benefits pursuant to section 96.6, subsection 2, and an overpayment occurred because of a subsequent reversal on appeal regarding the issue of the individual's separation from employment. ~~The employer shall not be charged with the benefits.~~

Sec. 2. Section 96.16, subsection 4, Code 2013, is amended to read as follows:

4. *Misrepresentation.*

a. An individual who, by reason of the nondisclosure or misrepresentation by the individual or by another of a material fact, has received any sum as benefits under this chapter while any conditions for the receipt of benefits imposed by this chapter were not fulfilled in the individual's case, or while the individual was disqualified from receiving benefits, shall, in the discretion of the department, either be liable to have the sum deducted from any future benefits payable to the individual under this chapter or shall be liable to repay to the department for the unemployment compensation fund, a sum equal to the amount so received by the individual. If the department seeks to recover the amount of the benefits by having the individual pay to the department a sum equal to that amount, the department may file a lien with the county recorder in favor of the state on the individual's property and rights to property, whether real or personal. The amount of the lien shall be collected in a manner similar to the provisions for the collection of past-due contributions in section 96.14, subsection 3.

b. The department shall assess a penalty equal to fifteen percent of the amount of a fraudulent overpayment. The penalty shall be collected in the same manner as the overpayment. The penalty shall be added to the amount of any lien filed pursuant to paragraph "a" and shall not be deducted from any future benefits payable to the individual under this chapter. Funds received for overpayment penalties shall be deposited in the unemployment trust fund.

Sec. 3. **APPLICABILITY.** The section of this Act amending section 96.3, subsection 7, relating to relief of charges, applies to any overpayment determination issued on or after July 1, 2013.

Sec. 4. APPLICABILITY. The section of this Act amending section 96.16, subsection 4, providing a penalty relating to fraudulent overpayment, applies to any fraudulent overpayment issued on or after July 1, 2013.

Approved February 28, 2013